(c) * * *

(6) Reviewing and, where the United States Receiving Office is not the competent Receiving Office under § 1.421(a) and PCT Rule 19.1 or 19.2, transmitting the international application to the International Bureau for processing in its capacity as a Receiving Office unless prescriptions concerning national security prevent the application from being so transmitted (PCT Rule 19.4).

3. Section 1.421 is amended by revising paragraph (a) to read as follows:

§ 1.421 Applicant for international application.

(a) Only residents or nationals of the United States of America may file international applications in the United States Receiving Office. If an international application does not include an applicant who is indicated as being a resident or national of the United States of America, and at least one applicant:

(1) Has indicated a residence or nationality in a PCT Contracting State, or

(2) Has no residence or nationality indicated; applicant will be so notified and, if the international application includes a fee amount equivalent to that required by § 1.445(a)(5), the international application will be forwarded for processing to the International Bureau acting as a Receiving Office. (See also § 1.412(c)(6)).

* * * * *

4. Section 1.445 is amended by adding new paragraph (a)(5) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(5) A fee equivalent to the transmittal fee in paragraph (a)(1) of this section for transmittal of an international application to the International Bureau for processing in its capacity as a Receiving Office (PCT Rule 19.4).

* * * * *

5. The authority citation for 37 CFR part 10 would continue to read as follows:

Authority: 5 U.S.C. 500; 15 U.S.C. 1123; 35 U.S.C. 6, 31, 32, 41.

6. Section 10.9 is amended by revising paragraph (c) to read as follows:

§ 10.9 Limited recognition in patent cases.

* * * * *

(c) An individual not registered under § 10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: The individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and § 1.455) or before the International Bureau when acting as Receiving Office pursuant to PCT Rules 83.1^{bis} and 90.1.

Dated: April 25, 1995.

Lawrence J. Goffney, Jr.,

Acting Assistant Secretary of Commerce and Acting Commissioner of Patents and Trademarks.

[FR Doc. 95–10743 Filed 5–1–95; 8:45 am]

BILLING CODE 3510–16–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 42–1–6916a; FRL–5186–7]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Pinal County Air Quality Control District; and Section 112(l) Approval of Pinal County Air Quality Control District Program for the Issuance of Permits Containing Voluntarily Accepted Federally Enforceable Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action on revisions to the Arizona State Implementation Plan. The revisions concern synthetic minor permit rules from the Pinal County Air Quality Control District (Pinal or District). The intended effect of approving these synthetic minor regulations is to allow facilities to voluntarily accept federally enforceable limits on their potential emissions. This approval action will incorporate these rules into the federally approved SIP. In order to extend the federal enforceability of conditions in permits to hazardous air pollutants (HAP), EPA is also approving Pinal's synthetic minor regulations pursuant to section 112 of the Act.

DATES: This final rule is effective on July 3, 1995 unless adverse or critical comments are received by June 1, 1995. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the rules and EPA's Technical Support Document for the synthetic minor program are available for public inspection at the following location:

Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the submitted rules are also available for inspection at the following location:

Pinal County Air Quality Control District, 457 South Central Avenue, Florence, Arizona 85232.

Arizona Department of Environmental Quality, 3033 North Central Avenue, Phoenix, Arizona 85012.

FOR FURTHER INFORMATION CONTACT: Regina Spindler, Operating Permits Section (A–5–2), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1251.

SUPPLEMENTARY INFORMATION:

Applicability

The rules being approved into the Arizona SIP include: Pinal County Air Quality Control District (Pinal) Code of Regulations, Chapter 1, Article 3, section 1–3–140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3–1–081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3–1–084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3–1–107, Public Notice and Participation. These rules were submitted by the Arizona Department of Environmental Quality to EPA on August 15, 1994 for approval into the State Implementation Plan. Pinal submitted these provisions for approval under section 112(l) on October 25, 1994.

Background

On June 28, 1989 (54 FR 27274), EPA published criteria for approving and incorporating into the SIP regulatory programs for the issuance of federally enforceable state operating permits (FESOP). Permits issued pursuant to an operating permit program approved into the SIP as meeting these criteria may be considered federally enforceable. On November 3, 1993, EPA announced in a guidance document entitled, ''Approaches to Creating Federally Enforceable Emissions Limits,'' signed by John S. Seitz, Director, Office of Air Quality Planning and Standards, that this mechanism could be extended to create federally enforceable limits for

emissions of hazardous air pollutants (HAP) if the program were approved pursuant to section 112(l) of the Act. Approval under section 112(l) is necessary because SIP approval extends only to the control of criteria pollutants, i.e., those for which primary and secondary ambient air quality standards have been established by EPA pursuant to section 109 of the Act.[1] Federally enforceable limits on criteria pollutants may have the incidental effect of limiting certain HAP listed pursuant to section 112(b).[2] As a legal matter, no additional program approval by EPA is required in order for these criteria pollutant limits to be recognized as federally enforceable. However, section 112 of the Act provides the underlying authority for controlling all HAP emissions.

EPA Evaluation and Action

The Arizona Department of Environmental Quality submitted Pinal's synthetic minor permit program on August 15, 1994 for approval into the SIP. The EPA found this submittal to be complete on September 1, 1994. Pinal submitted the program for approval under section 112(l) on October 25, 1994. Pinal's synthetic minor permit program is based on provisions (adopted August 11, 1994) that allow a source to apply voluntarily for limits on emissions, production or operation to be placed in its permit to limit the source's total potential emissions. These provisions are contained within District permitting regulations (adopted November 3, 1993) that apply to both major and nonmajor sources and that provide for the issuance of integrated construction and operating permits. These permit regulations require sources that modify or construct to first obtain a permit that contains both preconstruction and operating requirements. The regulations also require all existing sources to apply for an operating permit. Therefore, new, modifying, and existing sources are eligible to obtain voluntary limits under Pinal's synthetic minor provisions.

The voluntary limits established pursuant to Pinal's synthetic minor provisions will be specifically designated as federally enforceable in the permit. When the permit is issued pursuant to either the District's EPA-approved Title V or New Source Review program, the entire permit will be federally enforceable, except for those requirements that are enforceable only by the District and/or State and that Pinal specifically designates as not being federally enforceable. When the permit is issued to existing sources pursuant to the District's nonmajor source operating permit program, only federal applicable requirements and voluntary limits that are designated as such pursuant to section 3–1–084 will be federally enforceable since the District's nonmajor source operating permit program is not approved into the SIP by EPA. Pinal is not seeking to receive approval of its program such that all permits issued under the approved program are federally enforceable. Rather, Pinal is seeking approval of a rule that allows for federally enforceable terms and conditions, accepted voluntarily, to be placed in source construction and operating permits. The EPA interprets the June 28, 1989 **Federal Register** notice cited above to apply to approval of synthetic minor rules that provide for creating distinct federally enforceable limits in permits, as well as to approval of synthetic minor rules that provide for the issuance of permits that are federally enforceable in their entirety.

Though Pinal has submitted a number of regulations relating to the issuance of permits as a revision to its portion of the Arizona State Implementation Plan, today's action extends only to those provisions that pertain to the creation of voluntarily accepted federally enforceable emission limits. These provisions include section 3–1–084 which provides for establishing the federally enforceable emission, production, and operational limits in the source permit along with associated federally enforceable compliance requirements such as monitoring, recordkeeping, and reporting requirements. This provision also requires review of each permit by EPA as well as an opportunity for public comment pursuant to the public participation procedures in section 3–1–107. This action also extends to these public participation procedures as well as to a number of definitions in section 1–3–140 and to the requirement of section 3–1–081(A)(8)(a) that sources comply with the terms and conditions of the permit that contains the voluntarily accepted federally enforceable conditions. The EPA will take action on the remainder of the District's August 15, 1994 submittal at a future date.

The June 28, 1989 **Federal Register** notice specifies the following five approval criteria for approving FESOP programs into the SIP: (1) The program must be submitted to and approved by EPA; (2) the program must impose a legal obligation on the operating permit holders to comply with the terms and conditions of the permit, and permits that do not conform with the June 28, 1989 criteria or EPA's underlying regulations shall be deemed not federally enforceable; (3) the program must contain terms and conditions that are at least as stringent as any requirements contained in the SIP, enforceable under the SIP, or any section 112 or other CAA requirement, and may not allow for the waiver of any CAA requirement; (4) permits issued under the program must contain conditions that are permanent, quantifiable, and enforceable as a practical matter; and (5) permits that are intended to be federally enforceable must be issued subject to public participation and must be provided to EPA in proposed form on a timely basis. The June 28, 1989 notice does not address HAP because it was written prior to the 1990 amendments to section 112, not because it establishes requirements unique to criteria pollutants. Hence, EPA believes that these five criteria are also appropriate for evaluating and approving synthetic minor permit programs under section 112(l).

In addition to meeting the criteria in the June 28, 1989 notice, a synthetic minor permit program that addresses HAP must meet the statutory criteria for approval under section 112(l)(5). Section 112(l) allows EPA to approve a program only if it: (1) Contains adequate authority to assure compliance with any section 112 standards or requirements; (2) provides for adequate resources; (3) provides for an expeditious schedule for assuring compliance with section 112 requirements; and (4) is otherwise likely to satisfy the objectives of the Act.

The EPA plans to codify the approval criteria for programs limiting potential to emit of HAP, such as FESOP programs, through amendments to Subpart E of Part 63, the regulations promulgated to implement section 112(l) of the Act. (See 58 FR 62262, November 26, 1993.) The EPA currently anticipates that these regulatory criteria, as they apply to FESOP programs, will mirror those set forth in the June 28, 1989 notice. The EPA also anticipates that since FESOP programs approved pursuant to section 112(l) prior to the planned Subpart E revisions will have been approved as meeting these criteria, further approval actions for those programs will not be necessary. The EPA believes it has authority under

[1] The following are considered criteria pollutants: oxides of nitrogen, lead, ozone precursors, sulfur dioxide, carbon monoxide, and PM–10.

[2] See ''Options for Limiting the Potential to Emit of a Stationary Source Under Section 112 and Title V of the Clean Air Act,'' from John Seitz, dated January 25, 1995. EPA intends to issue further technical guidance on ensuring that the ''effect'' of limiting HAP is enforceable as a practical matter.

section 112(l) to approve programs to limit potential to emit of HAP directly under section 112(l) prior to this revision to Subpart E. The EPA is therefore approving Pinal's synthetic minor program now so that Pinal may begin to issue federally enforceable synthetic minor permits as soon as possible.

The EPA believes that Pinal's synthetic minor program meets the approval criteria specified in the June 28, 1989 **Federal Register** notice and in section 112(l)(5) of the Act. Please refer to the Technical Support Document for a thorough analysis of the June 28, 1989 criteria and the statutory criteria of section 112(l)(5) as applied to Pinal's synthetic minor program.

The EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, Pinal County Air Quality Control District Code of Regulations Chapter 1, Article 3, section 1–3–140, Definitions, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123; Chapter 3, Article 1, section 3–1–081, Permit conditions, subsection (A)(8)(a); Chapter 3, Article 1, section 3–1–084, Voluntarily Accepted Federally Enforceable Emissions Limitations; Applicability; Reopening; Effective Date; and Chapter 3, Article 1, section 3–1–107, Public Participation, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and Part D and under section 112(l) of the CAA as meeting the requirements of section 112(l)(5).

Pinal has already begun to issue permits containing voluntarily accepted limits pursuant to the regulations listed above. If the District followed its own procedures, each of these permits was subject to public notice and prior EPA review. Therefore, EPA will consider all voluntarily accepted limits in District permits that were processed in a manner consistent with the District regulations being acted upon today and the five June 28, 1989 criteria to be federally enforceable with the promulgation of this rule provided that any such permits containing the voluntarily accepted limits that the District wishes to make federally enforceable are submitted to EPA and accompanied by documentation that the procedures approved today have been followed. The EPA will expeditiously review any individual permits so submitted to ensure their conformity to the program requirements.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

The EPA is publishing this notice without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision and section 112(l) submittal should adverse or critical comments be filed. This action will be effective July 3, 1995, unless by June 1, 1995, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective July 3, 1995.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over population of less than 50,000.

Application for limits under Pinal's synthetic minor provisions is voluntary and therefore this approval under sections 110 and 112 of the Act does not create any new requirements. Therefore, because the federal SIP-approval and section 112(l) approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

The OMB has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 28, 1995.

Felicia Marcus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(71) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(71) New and amended regulations for the following agencies were submitted on August 15, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) Pinal County Air Quality Control District.

(*1*) Chapter 1, Article 3, section 1–3–140, subsections 5, 15, 21, 32, 33, 35, 50, 51, 58, 59, 103, and 123, adopted on November 3, 1993; Chapter 3, Article 1, section 3–1–081(A)(8)(a), adopted on November 3, 1993; Chapter 3, Article 1, section 3–1–084, adopted on August 11, 1994; and Chapter 3, Article 1, section 3–1–107, adopted on November 3, 1993.

* * * * *

[FR Doc. 95–10698 Filed 5–1–95; 8:45 am]

BILLING CODE 6560–50–W

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40 CFR Part 52

[MS–20–1–6562a; FRL–5173–9]

Approval and Promulgation of Implementation Plans; Mississippi: Approval of Revisions to Construction and Operation Permit Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.